

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO  
ALBUQUERQUE DIVISION

UNITED STATES OF AMERICA,	)	CASE NO: 1:18-CR-01107-MV
	)	
Plaintiff,	)	CRIMINAL
	)	
vs.	)	Albuquerque, New Mexico
	)	
WAYNE RYAN,	)	Monday, April 30, 2018
	)	(10:31 a.m. to 10:41 a.m.)
Defendant.	)	(10:50 a.m. to 11:15 a.m.)

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MOTION / DETENTION HEARING

BEFORE THE HONORABLE KAREN B. MOLZEN,  
UNITED STATES MAGISTRATE JUDGE

(SEALED BENCH CONFERENCE OMITTED)

Appearances:	See Next Page
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APPEARANCES FOR:

Plaintiff:

GEORGE C. KRAEHE, ESQ.  
U.S. Attorney's Office  
District of New Mexico  
P.O. Box 607  
Albuquerque, NM 87103

Defendant:

ALEJANDRO B. FERNANDEZ, ESQ.  
Office of the Federal Public Defender  
First State Bank Building  
111 Lomas Boulevard NW, Suite 501  
Albuquerque, NM 87102

U.S. Probation/Pretrial: S. Koch

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<u>DEFENSE WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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Albuquerque, New Mexico; Monday, April 30, 2018; 10:31 a.m.

(Call to Order)

**THE COURT:** This is a motion hearing in 18-CR-1107-MV, *United States of America versus Wayne Ryan*. Counsel, if you'd enter your appearance.

**MR. KRAEHE:** Good morning, Your Honor. George Kraehe for the United States.

**THE COURT:** Thank you.

**MR. FERNANDEZ:** Good morning, Your Honor. Alejandro Fernandez for Mr. Wayne Ryan, who is present, to my left.

**THE COURT:** All right, Mr. Ryan. Can you hear me all right today?

**THE DEFENDANT:** I can hear you just fine, ma'am, thank you.

**THE COURT:** Thank you. We are here today on defendant's opposed motion to temporarily modify conditions of release. I have reviewed both the motion and the response in this matter. Let's talk a bit more, Mr. Fernandez.

**MR. FERNANDEZ:** Absolutely, Your Honor, and thank you for the opportunity to further address the Court. Mr. Ryan's family and employer are here today. That's who are in the -- well, the only people in the audience right now.

From your right to left is Mr. Peterson (phonetic), who is his employer, and I'll go into that further in a moment.

**THE COURT:** Okay.

1           **MR. FERNANDEZ:** Then there is Ms. Mary Mabe  
2 (phonetic), who is a good, close family friend, his mother, his  
3 son, and his brother.

4           **THE COURT:** Okay. Thank you all for being here  
5 today.

6           **MR. FERNANDEZ:** Your Honor, I want to address the  
7 Court primarily on the issue of employment because at the time  
8 of his first hearing, it was said that he hadn't been employed  
9 for at least seven years, and that's obviously a problem for  
10 two reasons.

11           One, it appears as though Mr. Ryan gave false  
12 information; and two, he is not employed, so that would no  
13 doubt concern the Court for at least those two reasons.

14           **THE DEFENDANT:** They thought I was lying is what  
15 happened.

16           **MR. FERNANDEZ:** Yes.

17           **THE DEFENDANT:** I'm sorry. But I wasn't.

18           **MR. FERNANDEZ:** And Your Honor, so after that  
19 hearing, I followed up with Mr. Peterson, who's now in court  
20 today, and he's gotten me not just documents saying when and  
21 how often Mr. Ryan has worked for him, but also confirmed that  
22 he has a major project that Mr. Ryan was supposed to be on  
23 presently. And that major project is out in Arizona.

24           Mr. Peterson owns the company, Peterson Machine. It  
25 is machinery sales and engineering. He's expressed to me how

1 important of an employee Mr. Ryan is. He said he has  
2 certifications and approvals that other employees just don't  
3 have, certifications, and so he has skills that others don't  
4 possess and also approvals, which means he can go onto certain  
5 worksites that other employees can't because he's gone through  
6 the necessary steps of showing that he is qualified to be  
7 there.

8 **THE COURT:** Is there some kind of a national security  
9 clearance or -- what kind of certification are you talking  
10 about?

11 **MR. FERNANDEZ:** Well, Mister --

12 **THE DEFENDANT:** Background checks are one.

13 **MR. FERNANDEZ:** Mr. Peterson is here in court and he  
14 expressed a willingness to testify, if Your Honor wants to ask  
15 specific questions of him. There's certain things I just, even  
16 if he explains to me, I won't have the full grasp of, but it is  
17 involved in the machinery and the work that he does, technical  
18 certifications about what types of machines he can handle and I  
19 understand --

20 **THE DEFENDANT:** And going into -- I did a job last  
21 year, at the Aerojet Rocketdyne plant in LA, California, for  
22 Mr. Peterson and got in under those -- they have really  
23 stringent, and strict qualifications to get into their plants  
24 because of the type of work that they do for the Federal  
25 Government.

1           **MR. FERNANDEZ:** And that is what Mr. Peterson  
2 explains to me, that it is -- the approvals are site-specific  
3 and they do include background checks and drug testing, that  
4 sort of thing.

5           And then -- so, that was one thing I thought was very  
6 important for the Court to have some context of, but also  
7 Mr. Peterson said that Mr. Ryan's work for him goes back over  
8 20 years and that they have a relationship over 25.

9           At one point, Mr. Ryan was on the payroll and he was  
10 a regular employee, but since '90, I'm sorry, since 1989, he's  
11 been on a project basis and that's in part because Mr. Ryan  
12 lives here in New Mexico and primary operations in  
13 Mr. Peterson's line of work is in Arizona.

14           **THE COURT:** So, he's been functioning as an  
15 independent contractor?

16           **MR. FERNANDEZ:** Essentially, yes.

17           **THE COURT:** Okay.

18           **MR. FERNANDEZ:** Yeah. And, Mr. Peterson has been  
19 very vocal in support, but also wishes to express to the Court  
20 just how important Mr. Ryan is to his business and his current  
21 project that Mr. Ryan was supposed to be on starting weeks ago  
22 now.

23           **THE DEFENDANT:** And I told -- Judge, if I may I say  
24 something? And I told some people that I was working for --

25           **MR. FERNANDEZ:** No, no. Huh-uh.

1           **THE DEFENDANT:** No?

2           **MR. FERNANDEZ:** So, sorry. And I'm going to ask to  
3 approach with respect to the second topic, Your Honor.

4           **THE COURT:** All right. Do you want to do that later?

5           **MR. FERNANDEZ:** Yes.

6           **THE COURT:** Okay.

7           **MR. FERNANDEZ:** I do just want to add additionally  
8 that some points that I wish to raise with respect to the  
9 Pretrial Services Report specifically.

10           When it says that Mr. Ryan had traveled extensively  
11 in South America, which I believe was, at least, something that  
12 might concern the Court, I confirmed with Mr. Peterson that it  
13 was a project for Peterson Machinery Sales that Mr. Ryan --

14           **THE DEFENDANT:** I was there two weeks only.

15           **MR. FERNANDEZ:** Yeah. Mr. Ryan, they actually helped  
16 coordinate getting him his passport and it was a project down  
17 in Chile that he was working on and that was his travel in  
18 South America.

19           **THE COURT:** When was that and for how long?

20           **THE DEFENDANT:** 1996, Your Honor. And I've only been  
21 down there the one time and that was only to do that job for  
22 Mr. Peterson. I've never used my passport other than that, in  
23 my life.

24           **THE COURT:** Only for two weeks?

25           **THE DEFENDANT:** It was two weeks long.



1           **MR. FERNANDEZ:** And that is, that's been confirmed  
2 with Mr. Peterson. It was a concern for me that, Your Honor,  
3 in the assessment of nonappearance, it says lack of verifiable  
4 employment. Mr. Peterson had been made available to the  
5 Pretrial Services Office. I know Anthony Galas (phonetic) had  
6 spoken with him.

7           I understand he didn't get the paperwork that I have,  
8 but there was some verification, so I think that part of the  
9 report is incorrect.

10           Further, Your Honor, with respect to failures to  
11 appear, I see only five arrests listed in the bail report and  
12 none say that there was any failures to appear, so I'm not sure  
13 if that was put as a matter of course or if there was some  
14 information that I'm not privy to that has failures to appear.

15           **THE DEFENDANT:** There was a speeding ticket and I was  
16 incarcerated.

17           **MR. FERNANDEZ:** Wait, wait, wait, wait. Okay.  
18 That's, I guess where it came from, but I don't --

19           **THE COURT:** Well, I see the first -- the first one in  
20 '93 --

21           **MR. FERNANDEZ:** Oh, I see, sorry.

22           **THE COURT:** -- was failure to appear.

23           **MR. FERNANDEZ:** The very first one. I apologize,  
24 Your Honor, then. I would point out however that's nearly --

25           **THE COURT:** It's a long time ago.

1           **MR. FERNANDEZ:** Yes, nearly 25 years, or just about  
2 25 years. By all other accounts, and that's why I thought it  
3 was so important for the family to be here. He has a strong  
4 support network. He is known to the community. He is not  
5 someone who, that Your Honor should be concerned with,  
6 absconder status, but more importantly, Mr. Peterson, apart  
7 from being an employer is pledging to the Court that he would  
8 make sure that Mr. Ryan would be abiding by any of the  
9 conditions placed by Your Honor including GPS monitoring and,  
10 in a show of good faith, he actually has a place for Mr. Ryan  
11 to stay on company property; it would be in the form of sort of  
12 like a trailer, I believe.

13           **THE DEFENDANT:** It's actually a building, it's a  
14 house.

15           **THE COURT:** And how long is this employment  
16 anticipated to go for?

17           **MR. FERNANDEZ:** I'm not sure how long --

18           **THE DEFENDANT:** Well this job is about four months,  
19 but he has several others that he wants me to do and I  
20 personally was going to move out there and go to work for him  
21 full-time. Anyway, and my son was going to move out there with  
22 me because I have joint custody of him also.

23           **MR. FERNANDEZ:** And that was something that was  
24 contemplated. One of the conversations I had with Mr. Peterson  
25 was obviously the nature of the offense. Mr. Ryan would not

1 have -- would not be able to have any access to firearms. And  
2 he agreed that that's a company policy that no firearms are  
3 allowed on the grounds anyway, and that he would also pay  
4 special attention to that not being something that Mr. Ryan has  
5 any access to.

6 Obviously, that would also mean if he's out on  
7 company property in Arizona, he doesn't have any access to the  
8 airplanes, the ultralights that were alleged in this case.

9 **THE COURT:** Where are those ultralights now?

10 **MR. FERNANDEZ:** I understand that they're still on  
11 his property. He has about 40 acres in New Mexico although --  
12 yes, I believe they're still on the property. I don't know if  
13 the Government has taken any action to --

14 **THE DEFENDANT:** Well, one of them has gotten damaged,  
15 because there it wasn't secured.

16 **MR. FERNANDEZ:** So, those I think cover the issues  
17 that were not known or not present at the time of the original  
18 bail hearing. There's an additional thing I would like to  
19 approach, because it's more sensitive.

20 **THE COURT:** Okay. Why don't you approach?  
21 Mr. Kraehe.

22 **(Sealed bench conference omitted from 10:41 to 10:50 a.m.)**

23 **MR. FERNANDEZ:** Your Honor, may I have a moment just  
24 to step out and talk to Mr. Kraehe?

25 **THE COURT:** Yes.

1           **THE DEFENDANT:** If I may say something to you, Your  
2 Honor?

3           **THE COURT:** Why don't you wait until your attorney is  
4 with you?

5           **THE DEFENDANT:** Okay.

6           **MR. FERNANDEZ:** And Your Honor, at this time, I'd ask  
7 Mr. Peterson to take the stand.

8           **THE COURT:** Very good. Mr. Peterson, if you'd come  
9 right over here. That's the stand from which you'll testify.  
10 And before you do that, I do need to place you under oath, and  
11 if you'd raise your right hand, sir.

12                   **CHARLES PETERSON, DEFENSE WITNESS, SWORN**

13           **THE COURT:** Please be seated, sir.

14                   **DIRECT EXAMINATION**

15 **BY MR. FERNANDEZ:**

16 Q       Mr. Peterson, can you tell us your name?

17 A       Charles R. Peterson.

18 Q       And can you spell your last name for the record?

19 A       P-E-T-E-R-S-O-N.

20 Q       Can you tell us how you know Mr. Ryan?

21 A       I met Wayne Ryan originally in Casa Grande after he had  
22 moved there in early '90s through church affiliation.

23 Q       And can you tell us what the nature of your business is?

24 A       We deal with rebuilding and restoration of industrial  
25 machinery.

1 Q And can you tell us how Mr. Ryan fits into your business?

2 A Well, we realized early on that Wayne's ability was  
3 exceptional in his mechanical aptitude, his perseverance, and  
4 so on, and so the needs that we had he fit in very well with,  
5 always has, and we employed him full-time for quite a number of  
6 years in the '90s.

7 And since that period of time, we scaled back part of  
8 our operation and so he did projects, intermittent projects, at  
9 various locations around the country for us. Those projects  
10 involved going into plants and dismantling machinery, rigging,  
11 loading and then occasionally he would be back at our facility  
12 for the reassembly of the machines, rebuilding, retrofitting.  
13 And he's also gone into plants like in Chile; actually  
14 installed the machine and set it up for the customer.

15 Q And can you tell us, the machines, what areas, what  
16 sectors of industry do they service, or do you service?

17 A We deal primarily with metal working industrial, most  
18 manufacturing plants similar to the auto industry, the  
19 aluminum, steel industry.

20 Q And one of the things that was brought up was that there  
21 are certifications and other approvals for certain worksites.  
22 Can you tell us what that means?

23 A Well, yes. In most of the plants that we go into they  
24 have certain programs of safety standards, as well as  
25 qualifications for a person to operate forklifts, cranes,

1 equipment, and course, adhering to proper safety standards in  
2 each of the plants, as well as undergoing evaluations of  
3 testing for any abuse of any illegal drugs or alcohol.

4 Q And can you describe for us what accommodations you might  
5 have available for Mr. Ryan if he were to be released?

6 A Well, we have a large industrial site, 25-acre site, in  
7 Casa Grande, Arizona. It's our main facility and we have a  
8 caretaker's residence there that is vacant at the moment and  
9 so, we had provisions for Wayne, before this occurred, to be  
10 on-site, staying there, while working on the project we had,  
11 the first project to start with. He was going to be planned  
12 putting on payroll as a permanent employee again.

13 Q And forgive me for putting you on the spot, but Mr. Ryan  
14 is, I think, sometimes very excited. In your experience of 25  
15 years with him, can you tell us how you've experienced his sort  
16 of demeanor, and his -- the way he interacts with people?

17 A Well, Wayne is pretty hyper and, in our line of work, his  
18 ability to get in there and get the job done has always been  
19 very valuable to us, but of course, because of that, you know,  
20 he's had other initiatives and other opportunities and other  
21 incentives to him. He's gone elsewhere. Otherwise, Wayne  
22 would have been working for us permanently forever, but, you  
23 know, he had other opportunities.

24 In fact, what occurred regularly was when he went  
25 into other plants doing a job for us, those companies would

1 hire him, and that's where we would lose him usually, going to  
2 work for other companies because they saw the value.

3 But of course, they didn't have the patience that we  
4 had, so it didn't take long before they also realized that for  
5 him to work with others, he works at such a rapid pace that  
6 many others become offended and there's personality issues that  
7 develop, and so -- I mean, we've overcome those in working with  
8 Wayne.

9 We know Wayne. The other individuals with our firm  
10 are all well aware and are under the understanding that Wayne  
11 coming back, that we look to this to be a permanent  
12 relationship.

13 **MR. FERNANDEZ:** Does Your Honor have any questions  
14 that I didn't consider?

15 **THE COURT:** Well, you mentioned that these projects  
16 would take him to other facilities. What you're going to have  
17 him do now as an employee, is he going to be staying in Casa  
18 Grande at all times?

19 **THE WITNESS:** Well, we would in this case, depending  
20 on the Court's decision. The project we have right now is  
21 right in Arizona. It's in Phoenix, just a short distance from  
22 us. We're a suburb of Phoenix, and that's where he would be  
23 working; that's the project for the next three months, maybe  
24 longer.

25 We have projects planned in Texas and also in

1 Michigan and Ohio. But, depending on the Court's latitude, you  
2 know, we have others that can do those, but our preference is  
3 of course for Wayne to do it, but we have more than enough to  
4 handle.

5 There's been a major increase in industrial activity  
6 in the country in the last number of months and so, we're  
7 experiencing far more than we can handle, so right at our own  
8 location, if that's what the Court prefers and pleases, that he  
9 would stay right there.

10 **THE COURT:** Okay, when you talked about  
11 certifications, you're talking primarily about safety  
12 certifications or certifications as far as abilities toward  
13 certain industrial equipment?

14 **THE WITNESS:** Yes, right. Hydraulic, electrical,  
15 mechanical.

16 **THE COURT:** What about this notion of background  
17 checks that might be required by the Government. Has he ever  
18 had any of those in connection with his work with you?

19 **THE WITNESS:** We have not required it of him  
20 ourselves, because we've known Wayne himself, but the companies  
21 that have -- where we send him into, he has to go through  
22 approval processes for them, as working for us, approved by  
23 quite a number of firms, large, Fortune 500, Alcoa. I had  
24 quite a list. Alcoa aluminum is one of them just recently.

25 **THE COURT:** All right. So, this place, the residence



1 where he would be located, how far is that from your residence?

2           **THE WITNESS:** We're on the edge of Casa Grande; it's  
3 about 10 miles from our industrial property.

4           **THE COURT:** Okay. So you would actually be living 10  
5 miles away from where he would be?

6           **THE WITNESS:** Yes, yes. Now, I have two other  
7 individuals with the firm that live within a half a mile to a  
8 mile from our facility, management personnel.

9           **THE COURT:** All right.

10           **THE WITNESS:** Wayne has resided on our property in  
11 the past. So, he's very familiar with that.

12           **THE COURT:** All right. I don't have any other  
13 questions. Mr. Kraehe, do you have questions?

14           **MR. KRAEHE:** I do have questions, Your Honor.

15           **THE COURT:** All right. And --

16           **MR. FERNANDEZ:** May I sit down?

17           **THE COURT:** Yeah.

18                           **CROSS EXAMINATION**

19           **BY MR. KRAEHE:**

20           Q     Sir, when was the last time you've worked with Mr. Ryan?

21           A     Wayne worked for us in a project in Los Angeles in July of  
22 this last year.

23           Q     Okay. And was he working for you as an independent  
24 contractor or as an employee?

25           A     He was working as an independent contractor at that time.

1 Q And for how long did he work for you during that period?

2 A The project lasted about a month.

3 Q Okay. And over the last maybe five years, can you say how  
4 many projects Mr. Ryan has worked for you on?

5 A He's done at least six projects for us, outside of  
6 Arizona.

7 Q And the duration of those projects?

8 A Usually they were anywhere from one week to three weeks.

9 Q So over the last five years you've only worked with him on  
10 a very intermittent basis, maybe a one-week project, a one-  
11 month project in any given year?

12 A Yes, that's correct.

13 Q Okay. So, you haven't had the opportunity to observe his  
14 demeanor or his reliability, or his personal characteristics in  
15 any respect other than during those work projects?

16 A Yes, just during those projects.

17 Q And during those projects, as an independent contractor,  
18 he was out on his own, basically, without any of your  
19 supervision; is that correct?

20 A No, we had supervision in all those cases, relatively  
21 close contact with him as well as other workers with him.

22 Q Were you with him during those -- the entirety of those  
23 projects?

24 A I was with him the last one, as it began, in Los Angeles.

25 Q Okay. And do you have records that would substantiate

1 these projects?

2 A Yes.

3 Q Okay. And have you done a background check recently on  
4 Mr. Ryan?

5 A No, we have not.

6 Q When is the last time you did a background check?

7 A Well, our background checks would've been really more  
8 verbal and more consulting with others that he's been working  
9 with or for, and so, it's probably been, maybe more than a year  
10 or two since we've had any real evidence come back to us that  
11 would give us confidence.

12 Q Well, have you done, like, a criminal history check?

13 A Well, I've known Wayne since early '90s, and have been  
14 able to vouch very much for his character and know very well  
15 many of the different incidents he's been involved in.

16 Q Okay. And you mentioned earlier that Mr. Ryan operates  
17 heavy machinery as part of his employment with you?

18 A Yes. Cranes, forklifts and so on.

19 Q Okay. And certainly, it would be irresponsible of you to  
20 employ someone who operates that kind of machinery if that  
21 person was a regular drug user?

22 A Right. We've never had anybody that has his ability in  
23 operating, and we are -- we know in more recent years that  
24 there's been no activity as far as drugs are concerned.

25 Q You're sure of that?

1 A Yes.

2 Q Okay. Would it surprise you that drugs were found in  
3 Mr. Ryan's vehicle when he was arrested just over a month ago?

4 A Well, we know that he's been on medication because of his  
5 hyperness from a young age. I forget what they call it  
6 exactly, but, that was more in line with his metabolism than  
7 anything else.

8 Q Okay. It wouldn't be in line with his use of  
9 methamphetamine, which was the drug that was found in his  
10 vehicle at the time of his arrest?

11 A No. We've never known him to be out of control or in any  
12 way under influence.

13 Q Okay. Would that concern you though, if an employee was  
14 found to have drugs in his vehicle? Methamphetamine?

15 A Yes, it would if he was involved with it or using it, yes.

16 Q Okay. And, if there were information to the effect that  
17 Mr. Ryan was a drug user, a known drug user on a regular basis,  
18 and I'm talking about methamphetamine and other illegal drugs,  
19 would that be of concern to you as an employer?

20 A Yes, it is, it always has been.

21 Q Okay. And you wouldn't employ someone who was a regular  
22 user of methamphetamine or other illegal drugs?

23 A Yes, that's correct.

24 **THE COURT:** Excuse me. You've had, Mr. Peterson,  
25 employed or in a contract basis frequently. Have you ever

1 undertaken drug testing while he was working with you?

2           **THE WITNESS:** Yes, he did undergo testing at almost,  
3 must have been 12 years ago, in the late '90s, when he was  
4 working for us at that time.

5           **THE COURT:** But not in the last five years?

6           **THE WITNESS:** No.

7           **THE COURT:** Okay. Thank you.

8 **BY MR. KRAEHE:**

9 Q Just to be clear, the late '90s was about 20 years ago,  
10 right?

11 A Yeah, that's right, when he was on full-time payroll up  
12 until '99. Yeah.

13 Q Okay. And that's the last time you did a drug check on  
14 Mr. Ryan?

15 A Yes.

16 Q Okay. And the certifications that Mr. Ryan requires, do  
17 these also require some kind of background check?

18 A Yes, most of them; not required by us because we've known  
19 him, but by the companies that we're doing business with for  
20 him to be on their premises. They're the ones that require  
21 that.

22 Q Okay. Do you know whether these businesses would allow  
23 Mr. Ryan to be on their premises if they knew that he was a  
24 regular user of illegal drugs?

25 A They would not allow it on their property?

1 Q Okay. Do you know whether Mr. Ryan's certifications are  
2 current?

3 A Well, we know that the one from Alcoa, and of course, he  
4 mentioned Rocketdyne -- Aerojet Rocketdyne in Los Angeles was.

5 Q Okay.

6 A That was last year.

7 Q All right. And what other certifications -- well, what  
8 certifications would Mr. Ryan require for the job that you have  
9 in line for him?

10 A Well, the project at Alcoa coming up, he already has that  
11 because he's been approved for them before.

12 Q Okay. And you have -- do you have any concerns at all  
13 about Mr. Ryan and his past history of drug use?

14 A No, I don't; we do believe more recently that his -- based  
15 on his affirmations to us, which are significantly different  
16 before this occurred even, that we were -- had scheduled him to  
17 come on as a permanent payroll employee living on our property.

18 Q Okay. And the fact that methamphetamine was found in  
19 Mr. Ryan's vehicle just a month ago, that's of no concern to  
20 you at all?

21 A Well, he's explained it to us, and so we trust his  
22 explanation of it.

23 Q And his explanation of that was what?

24 A Well, it was -- apparently involving some activity that  
25 was going on that he was assisting federal agencies and so,

1 that's my understanding of it.

2 **MR. KRAEHE:** I have no further questions, Your Honor.

3 **THE COURT:** Also Mr. Peterson, you indicated that you  
4 had contacted his employers and -- who all had he worked for in  
5 the past?

6 **THE WITNESS:** Well, the companies that we were doing  
7 business with that had hired him. One was a company in North  
8 Carolina -- or no, Virginia, that hired him in the midst of the  
9 project. After we had shipped the machine to them, they wanted  
10 him to come in, and then they hired him after that.

11 **THE COURT:** How long ago was that?

12 **THE WITNESS:** Wayne would probably know more exactly  
13 the year, but that would have been probably just near 2003, I  
14 think, 2004.

15 **THE COURT:** Okay. What about in the last five years?  
16 Do you have any idea who he's been working for in those last  
17 five years other than projects with you?

18 **THE WITNESS:** Well we know about it, his employer in  
19 Socorro, the automotive repair facility there. We know of them  
20 and what he was doing there. Because he's always done that  
21 type of work also.

22 **THE COURT:** All right. You also talked to my  
23 Pretrial Services Officer, Anthony Galas?

24 **THE WITNESS:** Yes, that's correct.

25 **THE COURT:** Okay. And during the initial interview

1 with him, you seemed to indicate that there was no employment  
2 relationship, or something to that effect.

3 **THE WITNESS:** Well --

4 **THE COURT:** Can you tell me why?

5 **THE WITNESS:** Actually, that -- we received a phone  
6 call, unidentified phone call which would have been a month or  
7 so ago. We received an unidentified phone call to us.

8 I didn't actually take the call initially, but the  
9 call came to us about, was Wayne Ryan employed by us?

10 Well, we don't answer those kind of questions  
11 verbally, you know. Our labor policy is that it needs to be in  
12 writing; we need to know who's asking.

13 There was no identification as to who was asking it  
14 and the best I can tell is whoever did respond on it was not  
15 aware of where we were with Wayne at that very moment of  
16 bringing him back onto the payroll, knowing that he had worked  
17 for us back last summer on a project. And so --

18 **THE COURT:** Okay, so you didn't have any discussions  
19 at all with Mr. Galas?

20 **THE WITNESS:** Well, I spoke to this Mr. Galas by  
21 referral from Alejandro Fernandez to clarify about Wayne's  
22 employment, Wayne Ryan's employment.

23 **THE COURT:** But not the initial phone call?

24 **THE WITNESS:** No, no.

25 **THE COURT:** All right. Those are the questions I



1 have. Do you have any others Mr. Kraehe?

2 **MR. KRAEHE:** No, Your Honor.

3 **THE COURT:** How about you, Mr. Fernandez?

4 **MR. FERNANDEZ:** Nothing further, Your Honor.

5 **THE COURT:** All right. Thank you, Mr. Peterson. I  
6 appreciate it.

7 **(Witness excused)**

8 **THE COURT:** I noticed -- I'm looking at the Pretrial  
9 Services Report and there is no indication of any employer  
10 there in Socorro.

11 **MR. FERNANDEZ:** Are you talking about the auto --

12 **THE COURT:** Yes, sir.

13 **THE DEFENDANT:** Leesburg Auto?

14 **(Defendant confers with attorney)**

15 **THE DEFENDANT:** I resigned, to go to work for him.

16 **MR. FERNANDEZ:** How long did you work there?

17 **THE DEFENDANT:** I worked for him for like last seven  
18 days, months, since September of last year, I worked for  
19 Leesburg Auto and I was doing some work for another friend of  
20 mine with a drill rig that I had on my Jeep.

21 We were core drilling for mineral samples and I was  
22 doing that for the last year and a half, between working for  
23 Charlie.

24 **MR. FERNANDEZ:** So, I guess, Your Honor, the short of  
25 it is, I don't know whether they asked him about those things

1 in particular. Clearly, Peterson Machinery has been his most  
2 consistent and long-lasting employment and the one that he  
3 thought he was lining up for. He was expecting to do this --  
4 this project in Arizona.

5 **THE COURT:** I guess it gives me some concerns because  
6 it's been from -- the way I understood Mr. Peterson's testimony  
7 is it's been intermittent times that he's been working with  
8 Mr. Peterson. Only now would it be an employment relationship  
9 as opposed to a contractor relationship.

10 I think he said in the past it was primarily a couple  
11 of weeks, a week to a month, and now, it's a three-month  
12 project he's proposing.

13 I still have some concerns and I don't mean to  
14 interrupt you here, but, Mr. Kraehe, you made reference to  
15 methamphetamine that was found in the car. I don't -- or in  
16 his vehicle -- is that right?

17 **MR. KRAEHE:** Yes, Your Honor.

18 **THE COURT:** I don't -- is that in your motion? I  
19 mean, what's the source of that information?

20 **MR. KRAEHE:** Your Honor, I do believe there was some  
21 testimony to that effect at the hearing.

22 **THE COURT:** I'm trying to remember back. I've been  
23 through a few hearings.

24 **MR. KRAEHE:** I couldn't say for sure, Your Honor. I  
25 know it is on the Pretrial Services Report and it's definitely

1 something that was found, Your Honor.

2           **MR. FERNANDEZ:** And Your Honor, I trust the  
3 Government to the extent that if they're saying it was found  
4 and they believe it's vouchered. If for some reason that's  
5 incorrect, that'll come to light, but if they're representing  
6 that was there, I'm willing to assume that is the truth for  
7 right now.

8           That's precisely the sort of thing that conditions  
9 can be reached to address. If he's in Arizona, that's just a  
10 suburb of Phoenix. There's certainly robust Pretrial Services  
11 Agency there that could both monitor his physical location,  
12 whether it be GPS or other checking in, and have random and  
13 very frequent, even daily drug testing.

14           What Mister -- well, Mr. Ryan's clearly been without  
15 any substances, whether prescribed or otherwise, for the  
16 duration of his incarceration.

17           It's not something that he wants to jeopardize his  
18 future with.

19           **THE DEFENDANT:** I'll do anything you want to prove to  
20 you that I'm -- I'm not that type of person that they're  
21 portraying me in this --

22           **THE COURT:** And as I indicated to Mr. Fernandez, I  
23 still have some other concerns. And I think I'm going to  
24 require testimony by someone who can verify or at least explain  
25 to me some statements that you've made in the past.

1 I also need to understand why anyone would have a  
2 handcuff key in their mouth at the time that this happened.

3 **MR. FERNANDEZ:** And that will be part of --

4 **THE COURT:** You know, when I'm looking at flight  
5 risk, that is probably one of the most significant indicia of a  
6 flight risk.

7 **THE DEFENDANT:** I can explain that.

8 **MR. FERNANDEZ:** No. I think the additional testimony  
9 that Your Honor might want to hear could go some ways towards  
10 addressing that.

11 **THE COURT:** Because at this point, Mr. Ryan, I need  
12 more testimony that would convince me that you're not a risk of  
13 flight -- that --

14 **THE DEFENDANT:** What about -- what about my personal  
15 testimony to you?

16 **THE COURT:** Well, I'm going to let you talk to your  
17 attorney before you give any testimony. That's why I appointed  
18 him. Of course, it's always your right to decide what you want  
19 to do, but I want you to have full advice from your attorney.

20 There's some questions I have. I think he'll go  
21 through those with you to try and explain my concerns because  
22 these are significant charges and I need to make sure that  
23 there's -- that any conditions that I fashion will assure the  
24 safety of the community, and we do have that discussion about  
25 methamphetamines in your vehicle.

1           Also, flight risk. And I have some indicia with  
2 that. So, let's -- I'm going to ask Mr. Fernandez, if you want  
3 to proceed, to get in touch with my courtroom deputy to find a  
4 time when I can hear from that additional witness.

5           **MR. FERNANDEZ:** Your Honor, would that be in the  
6 nature of a continued hearing or would you want me to file a  
7 new motion?

8           **THE COURT:** No, I think it could be a continued  
9 hearing.

10          **MR. FERNANDEZ:** Okay.

11          **THE COURT:** Yeah. You don't need anything more, do  
12 you, Mr. Kraehe?

13          **MR. KRAEHE:** No, Your Honor. I did want to make the  
14 point that, you know, it seems like Mr. Peterson, who seems  
15 like a very nice guy, has taken Mr. Ryan sight unseen and on  
16 his word, and I'm wondering whether Mr. Ryan is in fact  
17 employable in the capacity that Mr. Peterson says he is if  
18 Mr. Ryan does do what, I think any employer's due diligence  
19 would be and --

20          **THE COURT:** Right --

21          **MR. KRAEHE:** -- and check into Mr. Ryan's background  
22 because I can't imagine an employer in their right mind would  
23 hire someone like Mr. Ryan given his background.

24          **THE COURT:** Well, he's got a lot of talents, I'm  
25 sure; that's what Mr. Peterson was talking about. The talent

1 alone is one aspect. The other part is if there are risks that  
2 I perceive and he may as well.

3 So, let's go on ahead and have that other hearing,  
4 because right now, I don't feel sufficiently comfortable where  
5 I would set conditions.

6 **MR. KRAEHE:** Okay.

7 **THE COURT:** But, let's hear what else you have. All  
8 right. Thank you. Thank you, Mr. Fernandez.

9 **MR. FERNANDEZ:** May I be excused, Your Honor?

10 **THE COURT:** You may. Have a good day.

11 **(Proceeding was adjourned at 11:15 a.m.)**

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CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

A handwritten signature in cursive script, appearing to read "Toni Hudson", is positioned above a horizontal line.

June 14, 2018

TONI HUDSON, TRANSCRIBER